

Contract Amendment Abstract A Matter #:A-41442**Contract Amendment Information**

Contract Title: Processing and Marketing of Recyclables (provision of services for processing and marketing recyclables)

Amendment Summary: Amends sections 3.2.1. Payments/Charges to Metro. 3.2.2 Price Adjustments, 3.2.4 Contract Value, Section 3.2.5, Additional Payment by Metro of Contract, adds section 7.24 Iran Divestment Act to Contract Terms, and updates Exhibits A and Exhibit B to the Contract.

Contract Number: 354129 Amendment Number: 2 Solicitation Number: 629862

Type of Contract: Project Completion Requires Council Legislation: Yes

Contract Start Date: 11/4/2015 Contract Expiration Date: 11/3/2025 Contract Term: 120 months

Estimated Annual Contract Value \$2,250,000.00 Fund: 30501 BU: 42804300

Payment Terms: Net 30 Selection Method: RFP

Procurement Staff: Teri Ray BAO Staff: Christopher Wood

Department(s) Served: Public Works

Contractor Information

Contracting Firm: Waste Management, Inc. of Tennessee

Address: 2555 Meridian Blvd, Suite 200

City: Franklin State: TN Zip: 37067

Contractor is (Enter Applicable %): SBE ☐ SDV ☐ MBE ☐ WBE ☐

Company Contact: Rob Owen Email Address: rowen@wm.com

Phone #: 615-764-4742 E1#: 792613

Contract Signatory: Eddie McManus Email Address: emcmanus@wm.com

Subcontractor Information

Small Business and Service Disabled

Veteran Business Program: No SBE/SDV participation Amount: N/A

Percent, if applicable: N/A

Procurement Nondiscrimination Program: No M/WBE Participation Amount: N/A

Percent: N/A

Federal Disadvantaged Business Enterprise: No Amount: N/A

Percent: N/A

* Amounts and/or percentages are not exclusive

**AMENDMENT NUMBER 2 TO CONTRACT NUMBER 354129
BETWEEN
THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
AND WASTE MANAGEMENT, INC. OF TENNESSEE**

This Amendment is entered into on the day this document is filed with the Metropolitan Clerk's Office, by and between THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY (METRO) and WASTE MANAGEMENT, INC. OF TENNESSEE(CONTRACTOR), located in Franklin, TN.

WITNESSETH

WHEREAS, the parties desire to modify the terms and conditions and to add or delete certain other terms and conditions to their original agreement dated November 4, 2015, Metro Contract numbered 354129, as amended by Amendment 1, hereinafter the "CONTRACT", the parties hereby agree as set forth below:

This amendment effects the following changes to the contract as detailed below.

1. The Terms and Conditions of the Agreement are amended as follows:

a. Section 3.2.1, **Payments to Metro**, is deleted and replaced with:

3.2.1. Payments/Charges to Metro.

Contractor shall pay or charge Metro for recyclable materials in accordance with the terms and conditions of Exhibit A. Payments will be made monthly for loads delivered in the prior month. Charges will be invoiced in accordance with Exhibit A. Payments from Metro shall be due thirty (30) days after date of invoice.

b. Section 3.2.2, **Escalation/De-escalation**, is deleted and replaced with:

"3.2.2. Price Adjustments. The Processing Fees and costs for transportation and disposal of residue shall be adjusted in accordance with increases and decreases in the applicable CPI as calculated below on July 1, 2021 and each July 1 thereafter (the "Anniversary Date"). The increases and decreases shall be based on the percentage increase in the CPI for the twelve (12) month period ending one month prior to the Anniversary Date. "CPI" means the Consumer Price Index-All Urban Consumers (CPI-U), Water, Sewer, and Trash Collection (WST), (Not Seasonally Adjusted, 12-month rolling average) as published by the United States Department of Labor, Bureau of Labor Statistics (1982-1984=100). In the event this CPI is no longer viable or no longer reflective of consumer prices in Customer's geographic region, another consumer pricing index or method of adjustment may be used as a replacement for the CPI, subject to the mutual agreement of the parties. Failure by a party to submit such CPI price adjustment shall not preclude the retroactive implementation of such adjustment as of the Anniversary Date.

2. Clause 3.2.4, **Contract Value**, is added to the Agreement as follows:

Based on potential increased volume of Recyclables related to more frequent collection (as proposed by Metro for 2020) and current composition value, Metro estimates that this contract has an annual value of \$2,250,000.00 (two million two hundred fifty thousand dollars.) CONTRACTOR shall be paid in accordance with Section 3.2.1 of the Agreement.

3. Section 3.2.5, **Additional Payment by METRO**, is added to the contract as follows:

"On or about July 1, 2020, METRO shall pay CONTRACTOR the one-time sum of \$1,057,678.97. In addition, if prior to July 1, 2020, METRO increases its collection of Recyclables from its current once per month schedule, the amount to be paid pursuant to this Amended Agreement, shall be increased by \$50,000.00 for each additional collection done prior to July 1, 2020. By way of example, if METRO increases its collection frequency to twice per month beginning in April 2020, METRO will pay the CONTRACTOR an additional \$150,000 - \$50,000 for each additional collection in April, May and June 2020. Upon timely receipt of said \$1,057,678.97 payment, in full, CONTRACTOR hereby releases and forever discharges METRO, and its respective employees or agents, and their respective successors and

assigns, from any and all claims, demands, liabilities, damages, debts, obligations, actions and causes of action, whether known or unknown, suspected or unsuspected, now existing, at law or in equity that METRO failed to adequately compensate CONTRACTOR for services rendered prior to June 30, 2020, and relating to or arising out of the alleged facts and events described in the letter of August 13, 2018 from Mr. Robert Cheney to Ms. Terri Troup, and the letter of July 2, 2019, from Mr. Eddie McManus to Ms. Sharon Wahlstrom, regarding CONTRACTOR's claim that the events described in those letters amounted to a change in Applicable Law pursuant to Section 7.11 of the Agreement. Each party hereby releases and forever discharges the other, and its respective employees or agents, and their respective successors and assigns, from any and all claims, demands, liabilities, damages, debts, obligations, actions and causes of action, whether known or unknown, suspected or unsuspected, now existing, at law or in equity that either party failed to negotiate changes to the Agreement in good faith as required by Section 7.11 of this Agreement. The parties acknowledge that this release is in settlement of a disputed claim and neither party acknowledges any wrongdoing. In the event the \$1,057,678.97 payment is not timely made, this agreement cannot be construed against a party, nor considered evidence of a party's position, nor considered the waiver or release of any legal, contractual or equitable rights of a party, all of which are expressly reserved.

3. Exhibit A to the contract is deleted and replaced with Exhibit A attached hereto.
4. Exhibit B to the contract is deleted and replaced with Exhibit B attached hereto.
5. Clause 7.24, Iran Divestment Act Language is added to the Agreement as follows:

7.2.4 Iran Divestment Act.

In accordance with the Iran Divestment Act, Tennessee Code Annotated § 12-12-101 et seq., CONTRACTOR certifies that to the best of its knowledge and belief, neither CONTRACTOR nor any of its subcontractors are on the list created pursuant to Tennessee Code Annotated § 12-12-106. Misrepresentation may result in civil and criminal sanctions, including contract termination, debarment, or suspension from being a contractor or subcontractor under METRO contracts.⁶ This Amendment is effective July 1, 2020.

This amendment shall not be binding upon the parties until it has been signed first by the CONTRACTOR and then by the authorized representatives of the Metropolitan Government and filed in the office of the Metropolitan Clerk.

Contract Number 354129Amendment Number #2**THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY****APPROVED AS TO PROJECT SCOPE:**

Mark Sturtevant SKW
Dept. / Agency / Comm. Head or Board Chair. Dept. Fin.

**APPROVED AS TO COMPLIANCE WITH
PROCUREMENT CODE:**

Michelle A. Hernandez Lane JLR
Purchasing Agent Purchasing

APPROVED AS TO AVAILABILITY OF FUNDS:

Kevin CumborHo km RV
Director of Finance OMB BA

APPROVED AS TO FORM AND LEGALITY:

Theresa Costonis BC
Metropolitan Attorney Insurance

Metropolitan Mayor COO

ATTESTED:

Metropolitan Clerk Date

CONTRACTORWaste Management Inc., of Tennessee

Company Name

Eddie McManus

Signature of Company's Contracting Officer

Eddie McManus

Officer's Name

AVP

Officer's Title

EXHIBIT A**PAYMENT/CHARGES**

CONTRACTOR shall pay or charge METRO for materials delivered as set forth below.

PROCESSING FEES

The initial processing fee for each ton of residential single stream and/or loose containers delivered to Contractor shall be \$101.40 per ton.

The initial processing fee for each ton of glass delivered to Contractor shall be \$42.44 per ton.

The initial processing fee for each ton of OCC delivered to Contractor shall be \$33.87 per ton.

The initial processing fee for each ton of mixed paper, including news delivered to Contractor shall be \$53.88 per ton.

RECYCLABLES VALUE

The Value of the various materials shall be calculated using the following pricing:

Fiber Pricing: "PPW" means the higher of the prices issued by RISI PPI Pulp & Paper Week for the Southeast Region, Domestic Price, 1st issue of the month retroactive to the first of the month.

Plastic 1, 2 and 5 as defined in Exhibit B, Steel Cans, and Aluminum: "SMP" means the average of the prices published at www.SecondaryMaterialsPricing.com, for the Atlanta Region, first dated price each month, retroactive to the first of the month, as follows:

SMP for Aluminum Cans (Sorted, Baled, ¢/lb., delivered)

SMP for Steel Cans (Sorted, Densified, (\$/Ton delivered)

SMP for PET (baled, ¢/lb. picked up)

SMP for Natural HDPE (baled, ¢/lb. picked up)

SMP for Colored HDPE (baled, ¢/lb. picked up)

SMP for PP (#5, baled, ¢/lb. picked up)*

Glass: SMP for 3 mix glass (\$/ton delivered) or the Actual Value, if less. "Actual Value" means the average price paid to or charged the recycling facility during the month of delivery of the recyclables, minus any freight, customs charges, duties, or other charges paid to third parties for such sales.

For transportation and disposal of residue - \$56.14 per ton.

If PPW or SMP (or both) is no longer reflective of prevailing market conditions or if an alternative publication more accurately reflects such market conditions, then CONTRACTOR may propose to use any such alternative publication(s) or alternate method to determine the value of each commodity set forth below. METRO's consent, which shall not be unreasonably withheld, conditioned or delayed, to the use of such alternate publication or method shall be required.

Where the value of a commodity is negative, Contractor shall charge, and METRO shall pay such value. Where the value of a commodity is positive, the amount of the Value to be paid to Metro is:

Residential Single Stream*	
Commodity	Percentage of Value to be Paid to Metro
Mixed Paper, including News (54)	70%
OCC #11	70%
PET	70%
HDPE Natural	70%
HDPE Colored	70%
Steel Cans	70%
UBC's	70%

Loose Container Stream*	
Commodity	Percentage of Value to be Paid to Metro
PET	70%
HDPE Natural	70%
HDPE Color	70%
Steel Cans - SMP	70%
UBC's - SMP	70%

Glass	
	Percentage of Value to be Paid to Metro
Three Mix Glass	70%

OCC	
	Percentage of Value to be Paid to Metro
OCC #11	70%

Mixed Paper, including News	
	Percentage of Value to be Paid to Metro
Mixed Paper # 54	70%

*As future markets for #5PP plastic develop, Metro requests this material be considered acceptable material and paid at 70%.

Payments from Metro for Residue

Metro shall pay Contractor the transportation and disposal amount for the processing and disposal of residue each month.

Payments/Charges for Acceptable Materials

Monthly payments or charges for all Acceptable Materials, except residue, will be net cumulative based on the value of each material set forth above and the payment or charge as calculated, as well as the processing fee for all tons delivered (except for rejected tons and Excluded Materials) and shall be invoiced or paid in accordance with the Agreement.

Charges for Rejected Load and Excluded Materials

Costs related to rejected materials and Excluded Materials shall be borne by Metro as set forth in the Terms and Conditions. In the event the parties agree to a price adjustment or payment of costs by Metro, such costs and/or other adjustments will be invoiced by Contractor and will be paid by Metro and in accordance with the Terms and Conditions.

Example:

Metro delivers 100 tons of residential single stream materials containing 31.3% residue and Contractor does not reject the load.

By way of example, the value of the materials and amount to be paid/charged to Metro is as follows:

Residential Single Stream					
Commodity	Percentage of Value to be Paid to Metro	Value	Composition Share	Value Per Ton	Value to Metro Per Ton
Mixed Paper, including News (54)	70%	\$0.00	39.3%	\$0.00	\$0.00
OCC #11	70%	\$35.00	21.2%	\$7.42	\$5.19

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EXHIBIT A

PET	70%	\$285.00	3.8%	\$10.83	\$7.58
HDPE Natural	70%	\$415.00	1.6%	\$6.64	\$4.65
HDPE Colored	70%	\$235.00	.1%	\$2.35	\$1.65
PP# 5 Plastics	70%				
Steel Cans	70%	\$20.00	.5%	\$0.10	\$0.07
UBC's	70%	\$1,160.00	2.2%	\$25.52	\$17.86
Total			68.7%		\$37.00

Processing fees: 100 tons x \$101.40 per ton = (\$10,140.00)

Residue Cost: 31.3 tons x \$56.14 per ton = (\$1,757.18)

Material Value: 68.7 tons x \$37.00 per ton = \$2,541.90

Payment by Metro to Contractor = \$9,355.28

Education Payments

Contractor will provide Metro \$50,000 per calendar year for education and outreach on recycling. Contractor will make monthly payments of \$4,166 to Metro.

Sponsor Group and Field Trip Payments

Contractor shall deduct sponsor group and field trip payments from revenue due to be paid to Metro and cut checks for each of the sponsor groups or Metro schools. Sponsor group of Metro School checks shall be sent to the Metro Public Works Department for distribution.

EXHIBIT B
Processing and Marketing of Recyclables
SCOPE OF SERVICES

A. Contractor & Contractor's Facility Requirements

1. The Contractor shall be the exclusive provider of services for processing and marketing acceptable recyclable materials collected by Metro for recycling. The Contractor shall provide, at their own expense, any and all buildings, all onsite and offsite equipment, processes, personnel and labor, necessary supplies, and any other resources to perform under this contract and to meet the service time frame described herein.
2. The Contractor shall comply with and/or obtain any pertinent local, state and federal guidelines, laws and permits prior to starting work under the contract. The Contractor and any subcontractors shall, at no expense to Metro, have and maintain current, and in full force and effect during the term of the contract, any and all identification numbers, licenses, permits and other governmental approvals or authorizations required by all applicable Environmental or Safety Law, implementing regulations, and governmental orders, permits, licenses, approvals, and authorizations and shall comply with all requirements thereof.

Nothing in this Contract, including Metro's knowledge or receipt, review, acceptance or approval of the Vendor subcontractor's permits, licenses, governmental approvals or authorizations, insurance documentation, safety plans, other plans or other regulatory or compliance information, shall be construed to waive any rights of Metro, nor shall relieve the Contractor of any legal obligation, including but not limited to the obligation to provide a safe and healthful working environment.

3. The Contractor shall, at a minimum, have one recycling facility that is operational by July 1, 2020 and is located centrally in Davidson County for accepting the Department's recyclables. Said facility may be a recycling processing facility or a recycling transfer station. The Department is willing to take glass collected from the recycling drop-off sites to a secondary location, as long as that location is in Davidson County. Metro, at its sole discretion, will review and approve any facility location. As of the date hereof, Metro approves the facility located at 208 River Hills Drive, Nashville, TC 37210 and the facility located at 1740 River Hills Drive, Nashville, TN 37210 (source separated materials and glass).
4. The Contractor shall accept, process, and market all Acceptable materials delivered to the facility by other Metro Government departments and agencies which are not rejected in accordance with this Scope of Work.
5. The Contractor shall meet all safety regulations as set forth by the Tennessee Department of Transportation and the Federal Department of Transportation.

6. The Contractor shall ensure that State of Tennessee certified truck scales and a tipping floor are accessible to Metro Public Works trucks 24 hours per day/7 days per week. Quarterly documentation shall be submitted to Metro Public Works by the Contractor verifying that scales have been tested and are accurate. The Contractor must notify Metro Public Works within two (2) hours if any problems with the scales occur.
7. The Contractor shall provide the ability to process 500 tons of recyclables per day. However, Metro makes no guarantee of the amount of material the Department shall deliver to the contractor.
8. The Contractor shall ensure a maximum turn around requirement of 15 minutes for Department vehicles from the time the vehicle arrives on the Contractor's property until the vehicle weighs in, dumps material on tipping floor, weighs out, and leaves Contractor's property.
9. Other than requirements of Metro Codes for the permitting of recycling processing facilities, the Contractor's facility shall additionally be enclosed to the extent that the enclosure:
 - a. Prevents the release of material or litter on the facility property; and
 - b. Prevents the release of material or litter onto the public or other person's private property.
10. The Contractor shall submit periodic reports summarizing activities in a form, substance, and frequency acceptable to Metro. Said reporting shall include reporting the tonnages of recycled items to Metro monthly. The Contractor agrees to keep appropriate written records of material management at its processing facility in order that Metro may, if upon request, audit those records to insure that such materials were handled, stored, labeled, shipped and disposed of properly.
11. The Contractor shall provide to Metro monthly remittance statements detailing payments made to Metro. Said statements shall be in a form acceptable to Metro.
12. The Contractor shall provide a central point of contact person(s) available by telephone and email from 7:00 AM to 5:00 PM Central Standard Time, Monday through Friday, for general contract service and to ensure coordination of the program, as well as individuals that have the necessary expertise to "trouble shoot" the provided solution. Points of contact(s) shall be available as specified above, as well as 24 hours per day in case of an emergency.
13. The Contractor shall follow instructions provided by Metro in delivering the subject services. It shall be the Contractor's responsibility to conform to Metro Public Works' scheduled work week, holidays and other appropriate rules and regulations.
14. The Contractor and staff working on Metro's account shall have the ability to send and receive e-mail correspondence by computer.
15. The Contractor shall permit Metro to visit and view any of the offices, premises, facilities and vehicles of the Contractor and that of the Contractor's actual or proposed subcontractors, upon request and reasonable notice during the terms of the Contract and any renewals. The Contractor and its actual and proposed subcontractors shall allow Metro access to all facilities and to view

annual financial statements, environmental, safety, and training records upon request, and shall assist authorized Metro personnel in visiting, viewing and reviewing the Contractor's and subcontractor's facilities and records and in copying records, provided however all visitors must follow the facility's safety rules. The parties may reach a reasonable agreement regarding the manner and cost of copying of records.

16. The Contractor shall accomplish all services in a timely and appropriate manner, and, at no expense to Metro.

B. Acceptable Recycling Material

17. The Contractor, at a minimum, shall accept the following materials for recycling:
 - a. Acceptable material from recycling drop-off sites. All material below will be delivered source separated in the categories listed:
 - 1) PAPER - All mixed paper including magazines, newspapers, office paper, telephone directories, paperback books, paper towel/toilet paper cores, aseptic containers and gable top cartons.
 - 2) CARDBOARD - All corrugated cardboard
 - 3) PLASTIC/METAL -All plastic bottles and containers labeled 1, 2 and 5 as defined below AND metal containers including food, beverage, and empty aerosol cans made from aluminum, tin, or steel
 - 4) GLASS - All mixed glass containers of all color types not separated by color
 - b. Acceptable material from curbside recycling. All material below will be delivered commingled:
 - 1) All mixed paper including magazines, newspapers, office paper, telephone directories, paperback books, paper towel/toilet paper cores, aseptic containers and gable top cartons. All corrugated cardboard. All plastic bottles and containers labeled 1, 2 and 5 as defined below and metal containers including food, beverage, and empty aerosol cans made from aluminum, tin, or steel.

18. The following are material specifications for the recyclables.

Only the following are Acceptable Materials:

Recycling Drop-off Material (Source Separated)	Preparation
Aluminum food and beverage containers*	Empty
Metal food containers*	Empty
Plastic bottles and containers 1, 2 and 5 (regardless of color), as defined below * PET (#1) bottles, jars and containers (including thermoform containers and PET cups) HDPE (#2) bottles, jars and containers (colored or natural) PP (#5) Containers & Lids (e.g. dairy containers) PP (#5) Bottles	Empty; clean – no food
Paper – all types and grades of paper including but not limited to magazines, newspapers, office paper, telephone directories, paperback books and paper towel/toilet paper cores, aseptic and gable top containers***	Clean – no food
Corrugated Containers***	Clean-no food
Glass Containers – all colors mixed	Empty

Curbside Recycling Materials (Single Stream) **	Preparation
<ul style="list-style-type: none"> Aluminum food and beverage containers Metal food containers Plastic bottles and containers 1, 2 and 5 as defined below <p>PET (#1) bottles, jars and containers (including thermoform containers and PET cups)</p> <p>HDPE (#2) bottles, jars and containers (colored or natural)</p> <p>PP (#5) Containers & Lids (e.g. dairy containers)</p> <p>PP (#5) Bottles</p>	<p>Empty</p> <p>Empty</p> <p>Empty</p>
<ul style="list-style-type: none"> Paper – all types and grades of paper including but not limited to magazines, newspapers, office paper, telephone directories, paperback books, and paper towel/toilet paper cores , aseptic and gable top containers Corrugated Containers 	<p>Clean – no food</p> <p>Clean – no food</p>

Anything not set forth above is contamination. Recyclables should not include the following:

Bagged materials (even if containing Recyclables)	Window or auto glass
Mirrors	Ceramics
Light Bulbs	Plastics 3, 4, 6 and 7 and unnumbered
Porcelain	Coat hangers
Plastic bags	Household items such as cooking pots, toasters, etc.
Glass cookware/bakeware	Wet fiber
Flexible packaging and multi-laminated materials	Fiber containing, or that has been in contact with, food debris
Excluded Materials as defined below.	Any recyclable materials, or pieces of recyclable materials, less than 2" in size in any dimension

Recyclables must not contain materials: (a) that contain chemical or other properties deleterious, or capable of causing material damage, to any part of Contractor's property, its personnel or the public; and/or (b) that may materially impair the strength or the durability of the Contractor's structures or equipment or Excluded Materials as defined below.

*Aluminum, metal and plastic will be collected and delivered commingled. Acceptable material may not contain more than 5% contamination by weight.

**All curbside recycling materials are collected and delivered commingled. Acceptable material may not contain more than 15% contamination by weight.

***Paper:

A mixture of various qualities of dry paper not limited as to type of fiber content, normally generated from residential, multi-material collection programs. Acceptable materials may not contain more than 5% contamination by weight.

***Cardboard:

Consists of dry corrugated containers having liners of either test liner or kraft. Acceptable materials may not contain more than 5% contamination by weight.

C. Recycling of Material and Disposal of Residual Material

21. The Contractor shall be responsible for processing and recycling all of the Acceptable material delivered by Metro to the Contractor's facility. At no point may the Contractor dispose of Acceptable recyclable material in any way that would be considered by the Tennessee Department of Environment and Conservation to be disposal or landfilling. While Metro will make every effort to ensure that material is free from contamination, it will be the responsibility of the Contractor to transport and dispose of any residual material up to the levels set forth above. Metro will be responsible for the actual cost of the audited residual percentage and will pay this amount as set forth on Exhibit A.
22. Procedures for Rejection of Loads. In the event a load of materials contains excess contamination, the load may be rejected and/or METRO may be charged additional processing, return or disposal costs. Prior to rejecting any material, Contractor shall promptly notify Metro of such rejection, and hold such load (the "Questioned Load") for four (4) hours after such notification for Metro's visual inspection. Contractor shall also digitally photograph the Questioned Load and forward such photographs to Metro via email. If a Questioned Load is determined by Contractor not to meet the Specifications, and the parties are unable to reach agreement as to an adjustment in price, which adjustment may include additional processing fees or disposal costs, Metro shall, at its own cost and expense, cause the rejected load to be removed from Contractor's site. If Metro fails to timely remove such load, Contractor shall transport and dispose of such load at Metro's sole cost and expense. or be disposed of by Recycler by the least costly means reasonably available to Contractor.

D. Ownership of Material

23. Except as set forth herein, ownership of materials shall pass to the Contractor once the material is delivered to the Contractor's tipping floor. The Contractor will not take title to Excluded Materials or rejected loads. "Excluded Materials" means radioactive, volatile, corrosive, flammable, explosive, biomedical, infectious, bio-hazardous or toxic substances or materials. Title to and liability for Excluded Materials shall remain with Metro (or the party delivering such materials) at all times. If Excluded Materials are delivered to the facility by or on behalf of METRO, the CONTRACTOR, in consultation with and upon agreement by METRO, may reject the entire load, or separately contain, set aside, segregate, isolate, and manage such Excluded Materials as required by Applicable Law. METRO will be notified promptly of the location, general character and amount of such Excluded Materials. If requested by CONTRACTOR, METRO must remove, or cause to be removed, such Excluded Materials and shall transport and dispose of, or shall cause such Excluded Materials to be transported and disposed, in accordance with Applicable Law. If METRO fails to timely remove such Excluded Materials after request by CONTRACTOR, CONTRACTOR may, after notice to METRO,

transport and dispose of such Excluded Materials and charge the costs thereof to METRO.

E. Material Audits

24. General: The Contractor shall conduct a Composition Audit during the first thirty (30) days of the Agreement to establish the initial inbound composition of each stream of materials, the results of which shall be retroactive to the effective date of this contract. Additional Composition audits will be undertaken as the Contractor reasonably deems necessary upon notice to Metro. Metro may also request a Composition Audit not more than four (4) times per twelve (12) month period during the Contract Term. The Contractor will notify Metro in advance of all prospective Composition Audit dates and times at least one (1) week prior to undertaking a Composition Audit. Metro may have a representative present at the Composition Audit. For the purposes of determining payment, the composition percentages derived from the most recent Composition Audit will be effective after each composition audit for the month immediately following the most recent Composition Audit.
25. Source Separated Materials: Composition Audits of mixed paper, newspaper, cardboard, comingled containers and glass will determine the percentage of each category of material and contamination found in the recyclables delivered by or on behalf of Metro. The protocol for conducting audits will consist of the following: Representative samples of the stream shall be taken from different routes, different times of day, and different days of the week as appropriate. The samples will then be transported to the sorting area and hand sorted. Components will be sorted into bins and/or carts based on the material type and size, and each material will be weighed to the nearest tenth of a pound. The results of the audit are used to calculate the inbound composition of the stream.
26. Single Stream Materials: Composition Audits of the Single Stream Materials will determine the percentage of each category of material found in the Single Stream Materials delivered by or on behalf of Metro. The protocol for conducting audits will consist of the following: Representative samples of the stream shall be taken from different routes, different times of day, and different days of the week as appropriate. The samples will be processed at the Designated Facility. Each processed component will be weighed to the nearest tenth of a pound. After all materials have been collected, weighed, and recorded, composition and quantity estimates of the Single Stream Materials are calculated and recorded. The results of the audit are used to calculate the inbound composition of the Single Stream Materials.

F. Transition Support

27. The Contractor understands, acknowledges, and agrees that a smooth transition from one provider to another is essential for the health and safety of the Metropolitan Government and its residents. The Contractor understands, acknowledges, and agrees that the failure of the Contractor to timely and promptly transition the services pursuant to the contract may create

serious health and safety issues for Metro and its residents. The Contractor understands, acknowledges, and agrees that Metro does not possess the necessary manpower or equipment to provide processing and marketing of program recyclable materials.

The Contractor shall cooperate fully and timely with Metro and any previous and subsequent provider in any transition of processing and marketing of program recyclable materials. The Contractor shall cooperate fully with the Metropolitan Government in:

- a. The transition to the Contractor providing services upon the commencement of the initial term of the contract;
- b. The transition from the Contractor to subsequent person(s)/entities(s) or Metro providing services upon expiration of the initial term or optional renewal term; and
- c. The transition from the Contractor to subsequent person(s) or Metro providing services upon termination of the contract.

If the contractor fails to fully and completely transition in accordance with the contract, Metro may engage the immediate services of another contractor to immediately and fully transition in accordance with the contract and contractor shall pay the Metropolitan Government the reasonable expenses for such transition. In the event Metro is unable to secure the immediate services of another contractor, Metro may pursue any and all equitable and legal remedies available to Metro.

28. The Contractor shall provide to Metro a Maintenance and Safety Plan for the recycling facility at least 45 days prior to July 1, 2020.
29. The Contractor shall assist Metro in public education regarding recycling. Said assistance shall include the provision of funding for education programs and materials and the provision of an ADA accessible recycling education classroom to be used for Metro Public Works education staff during normal business hours. Said classroom shall be at minimum 12 feet by 27 feet.

G. Metro's Responsibilities

30. Metro will provide designated personnel who will be able to talk with contractor and answer questions on a timely basis.
31. Metro will review all reports and provide feedback, suggestions, and guidance to assist contractor in maximizing services rendered as to both quality and volume.

32. Metro will continually evaluate the overall operation of all programs making adjustments as needed.
33. Metro shall have the right but not the responsibility to inspect and approve any equipment used by the contractor to perform services under this contract. Metropolitan Government, by this right to inspect, does not assume any responsibility for the operation of the equipment.

H. Education Funding/Assistance

34. In addition to the education room and to assist the Department in public education. CONTRACTOR shall pay Metro the amounts set forth in Exhibit A of the Contract for education programs and material. Education funding shall be used by the Department for printing recycling and waste reduction materials, banners and signs, paying school bus fees for field trips, and to help offset any recycling and waste reduction PR and/or TV and print promotions.
35. CONTRACTOR shall provide reasonable public education assistance.

I. License for Use of Educational Materials

36.
 - a. WM hereby grants, or will cause its affiliates to grant, to Metro a non-exclusive, non-transferable, revocable license to use the WM or its affiliates marks, logos, names and/or copyrighted materials related to the WM Service Mark *Recycle Right*® and any educational materials related thereto ("WM Property") for the purpose of citizen education. All other rights not expressly provided herein, including the rights to use and/or license the WM Property elsewhere, are expressly reserved by WM and its affiliates.
 - b. Metro recognizes the great value of the goodwill associated with the WM Property and acknowledges that the WM Property and all rights therein and the goodwill pertaining thereto belong exclusively to WM, or its affiliates.
 - c. Metro acknowledges that WM, or its affiliates, is the owner of the exclusive right, title and interest in and to the WM Property. Metro shall not during the term of this Consent, or thereafter, attack the title or any right or interest of WM in and to the WM Property or attack the validity of this License.
 - d. Except as otherwise provided herein, prior to adoption and use, Metro shall submit to WM for prior written approval all proposed uses of the WM Property by Metro. WM shall determine in its sole discretion whether or not Metro's proposed use meets WM's approval.
 - e. Metro shall use the WM Property with appropriate notice designations as instructed by WM or its affiliates.
 - f. Metro shall at no time attempt to register or register anywhere in its own name, or on behalf of any other person, the WM Property, or any mark incorporating the WM Property, and also shall not associate the WM Property with any article or service, other than the uses allowed hereunder.
 - g. Metro shall not use any of the WM Property in combination with any other trademark or service mark of a third party without the express written consent of WM.
 - h. Metro shall cooperate fully and in good faith with WM for the purpose of securing and preserving WM's rights in and to the WM Property, including but not limited to, providing WM

specimens of use to enable WM to perfect applications for registration of, or maintain registrations for, the WM Property and/or other WM Property including, or which are derivatives of, the WM Property. Metro's use of the WM Property in accordance with this Agreement shall inure to the benefit of WM. Customer shall not at any time acquire any rights in such WM Property by virtue of any use it may make of such WM Property, including any such use in accordance with this Consent.

- i. On expiration or termination of this Agreement for any reason, all rights and licenses granted pursuant to this Agreement shall cease and Customer shall cease all use of the WM Property.



CERTIFICATE OF LIABILITY INSURANCE

1/1/2021

DATE (MM/DD/YYYY)
12/6/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	LOCKTON COMPANIES 3657 BRIARPARK DRIVE, SUITE 700 HOUSTON TX 77042 866-260-3538	CONTACT NAME:	
		PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		INSURER(S) AFFORDING COVERAGE	NAIC #
		INSURER A: ACE American Insurance Company	22667
		INSURER B: Indemnity Insurance Co of North America	43575
		INSURER C: ACE Fire Underwriters Insurance Company	20702
		INSURER D: ACE Property & Casualty Insurance Co	20699
		INSURER E:	
		INSURER F:	

INSURED
1300299 WASTE MANAGEMENT HOLDINGS, INC. & ALL AFFILIATED,
RELATED & SUBSIDIARY COMPANIES INCLUDING:
NASHVILLE RRC NORTH
208 RIVER HILLS DRIVE
NASHVILLE TN 37210

COVERAGES **CERTIFICATE NUMBER: 13301742** **REVISION NUMBER: XXXXXXXX**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU INCLUDED <input checked="" type="checkbox"/> ISO FORM CG00010413 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC <input type="checkbox"/> OTHER:	Y	Y	HDO G71237345	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 5,000,000 MED EXP (Any one person) \$ XXXXXXXX PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 6,000,000 PRODUCTS - COMP/OP AGG \$ 6,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> MCS-90	Y	Y	MMT H25290008	1/1/2020	1/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
D	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$	Y	Y	XOO G27929242 005	1/1/2020	1/1/2021	EACH OCCURRENCE \$ 15,000,000 AGGREGATE \$ 15,000,000 \$ XXXXXXXX
B A C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	WLR C66043058 (AOS) WLR C66043010 (AZ, CA & MA) SCF C66043095 (WI)	1/1/2020 1/1/2021 1/1/2020	1/1/2021 1/1/2021 1/1/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 3,000,000 E.L. DISEASE - EA EMPLOYEE \$ 3,000,000 E.L. DISEASE - POLICY LIMIT \$ 3,000,000
A	EXCESS AUTO LIABILITY	Y	Y	XSA H25289961	1/1/2020	1/1/2021	COMBINED SINGLE LIMIT \$9,000,000 (EACH ACCIDENT)

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

BLANKET WAIVER OF SUBROGATION IS GRANTED IN FAVOR OF CERTIFICATE HOLDER ON ALL POLICIES WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT WHERE PERMISSIBLE BY LAW. CERTIFICATE HOLDER IS NAMED AS AN ADDITIONAL INSURED (EXCEPT FOR WORKERS' COMP/EL) WHERE AND TO THE EXTENT REQUIRED BY WRITTEN CONTRACT.

354129

CERTIFICATE HOLDER

CANCELLATION

13301742

PURCHASING AGENT
METROPOLITAN GOVERNMENT OF NASHVILLE & DAVIDSON
COUNTY METRO COURTHOUSE
730 2ND AVE S
PO BOX 196300
NASHVILLE TN 37219

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

**METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY
DEPARTMENT OF FINANCE – PROCUREMENT
CONTRACT AMENDMENT JUSTIFICATION FORM**

CA #: Purchasing Log #:

Send an email to PRG@nashville.gov and attach completed amendment form and supporting documentation.

Contact Title: Processing and Marketing of Recyclables Contract Number: 354129 Amendment Number: S

Requesting Department: Public Works
Wahstom 615-880-1681

Requesting Departmental Contact (Name & Number): Sharon

Contractor's Business Name: Waste Management

Name of Contract Signatory: Timothy WELLS

Contract Signatory Email Address: twell2@wm.com

Address: City: 2555 Meridan Blvs, Suite 200, Franklin ST: TN Zip: 37067

Revision Accomplishes: Check all that apply

<input type="checkbox"/> Term Extension	New End Date: _____	Include revised schedule if necessary
<input type="checkbox"/> Contract Value Increase	Original Contract Amount _____ Previously Executed Amendment(s) Amount _____ Current Amendment Amount _____ Amendment % Increase _____ Proposed Revised Contract Amount _____	Include revised fee schedules, budget, and total contract value as appropriate
<input type="checkbox"/> Scope of Work Revision		Include concise and explicit narrative regarding revised scope of work and any subcontractor changes necessary
<input type="checkbox"/> Terms and Conditions Modification		Include applicable exhibits as appropriate along with appropriate redlines
<input type="checkbox"/> Other (Describe)		Include applicable documentation

ACCOUNTING INFORMATION

BU Number: 42804300 Fund #: 30501 Any Other Accounting Info: _____

Signature of Requesting Departmental Personnel

Date

SK Wahstom

2/20/19

To be completed by the Procurement Division

☒ Contract Amendment is Approved

☐ Contract Amendment is Denied

PURCHASING AGENT:

Michelle Hernandez

Date:

2/28/19

Certificate Of Completion

Envelope Id: 54A65E418D4B42F8A0F44F32DA85AD03

Status: Sent

Subject: Metro Contract 354129 Amendment 2 with Waste Management Inc of Tennessee (Public Works)

Source Envelope:

Document Pages: 22

Signatures: 5

Envelope Originator:

Certificate Pages: 17

Initials: 6

Procurement Resource Group

AutoNav: Enabled

730 2nd Ave. South 1st Floor

Envelopeld Stamping: Enabled

Nashville, TN 37219

Time Zone: (UTC-06:00) Central Time (US & Canada)

prg@nashville.gov

IP Address: 170.190.198.190

Record Tracking

Status: Original

Holder: Procurement Resource Group

Location: DocuSign

3/26/2020 9:07:39 AM

prg@nashville.gov

Signer Events

Signature

Timestamp

Terri L. Ray

Terri.Ray@nashville.gov

Senior Procurement Officer

Metropolitan Government of Nashville and Davidson

County

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign



Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.185

Sent: 3/26/2020 9:24:57 AM

Viewed: 3/26/2020 10:59:05 AM

Signed: 3/26/2020 10:59:57 AM

Michelle A. Hernandez Lane

michelle.lane@nashville.gov

Chief Procurement Officer/Purchasing Agent

Metro

Security Level: Email, Account Authentication
(None)

Electronic Record and Signature Disclosure:

Not Offered via DocuSign



Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.185

Sent: 3/26/2020 11:00:00 AM

Viewed: 3/26/2020 11:38:30 AM

Signed: 3/26/2020 11:38:34 AM

Sharon Wahlstrom

Sharon.Wahlstrom@nashville.gov

Security Level: Email, Account Authentication
(None)



Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.240

Sent: 3/26/2020 11:38:37 AM

Viewed: 3/26/2020 12:23:33 PM

Signed: 3/26/2020 12:24:05 PM

Electronic Record and Signature Disclosure:

Accepted: 3/26/2020 12:23:33 PM

ID: 338cc5fa-3034-43bb-97e7-616970a8dd03

Alicia Viravouth

Alicia.Viravouth@nashville.gov

Management and Budget Analyst 3

Security Level: Email, Account Authentication
(None)



Signature Adoption: Pre-selected Style

Using IP Address: 170.190.198.186

Sent: 3/26/2020 12:24:09 PM

Viewed: 3/26/2020 1:13:36 PM


Signed: 3/26/2020 2:51:20 PM

Electronic Record and Signature Disclosure:


Accepted: 3/26/2020 1:13:36 PM

ID: b64595da-0bfe-4f39-81a8-f9b735c1f0e7

Signer Events	Signature	Timestamp
<p>Eddie McManus emcmanus@wm.com AVP Waste Management Inc., of Tennessee Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<p><i>Eddie McManus</i></p> <p>Signature Adoption: Pre-selected Style Using IP Address: 156.101.9.1</p>	<p>Sent: 3/26/2020 2:51:24 PM Viewed: 3/26/2020 2:59:17 PM Signed: 3/26/2020 4:05:58 PM</p>
<p>Michelle A. Hernandez Lane michelle.lane@nashville.gov Chief Procurement Officer/Purchasing Agent Metro Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Not Offered via DocuSign</p>	<p><i>Michelle A. Hernandez Lane</i></p> <p>Signature Adoption: Pre-selected Style Using IP Address: 104.176.252.12 Signed using mobile</p>	<p>Sent: 3/26/2020 4:06:01 PM Viewed: 3/27/2020 8:57:24 AM Signed: 3/27/2020 8:57:30 AM</p>
<p>Mark Sturtevant Mark.Sturtevant@nashville.gov Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 3/27/2020 9:51:44 AM ID: 4cfeea03-1de3-42c0-a328-e243797b6981</p>	<p><i>Mark Sturtevant</i></p> <p>Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.185</p>	<p>Sent: 3/27/2020 8:57:34 AM Viewed: 3/27/2020 9:51:44 AM Signed: 3/27/2020 9:52:22 AM</p>
<p>Kim McDoniel Kim.McDoniel@nashville.gov Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 3/29/2020 3:17:32 PM ID: b4df30f0-1eeb-45ca-b7b8-74cafe79487c</p>	<p><i>Kim McDoniel</i></p> <p>Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.185</p>	<p>Sent: 3/27/2020 9:52:25 AM Viewed: 3/29/2020 3:17:32 PM Signed: 3/29/2020 3:18:07 PM</p>
<p>Kevin Cumbo/tlo talia.lomaxodNeal@nashville.gov Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 3/30/2020 7:03:52 AM ID: df9c4542-0ac6-479e-8e30-46d378161e38</p>	<p><i>Kevin Cumbo/tlo</i></p> <p>Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.190</p>	<p>Sent: 3/29/2020 3:18:11 PM Viewed: 3/30/2020 7:03:52 AM Signed: 3/30/2020 7:04:07 AM</p>
<p>Sally Palmer sally.palmer@nashville.gov Security Level: Email, Account Authentication (None)</p> <p>Electronic Record and Signature Disclosure: Accepted: 3/30/2020 10:25:42 AM ID: b6d8f6bb-0ce3-44bb-941b-e41fe4e6f9d6</p>	<p>Completed</p> <p>Using IP Address: 170.190.198.100</p>	<p>Sent: 3/30/2020 7:04:11 AM Viewed: 3/30/2020 10:07:13 AM Signed: 3/30/2020 10:12:12 AM</p>

Signer Events	Signature	Timestamp
Balogun Cobb balogun.cobb@nashville.gov Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.144	Sent: 3/30/2020 10:12:15 AM Viewed: 3/30/2020 10:14:30 AM Signed: 3/30/2020 10:16:10 AM

Electronic Record and Signature Disclosure:
Accepted: 3/30/2020 10:14:30 AM
ID: 65f56e0c-94ea-4c5b-a70f-5a5b7ab332c2

Theresa Costonis Theresa.Costonis@nashville.gov Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.185	Sent: 3/30/2020 10:34:58 AM Viewed: 3/30/2020 10:36:24 AM Signed: 3/30/2020 10:36:50 AM
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Electronic Record and Signature Disclosure:
Accepted: 3/30/2020 10:36:24 AM
ID: 0d514a8f-a4dd-4fd8-9d62-492894f6c999

Procurement Resource Group prg@nashville.gov Metropolitan Government of Nashville and Davidson County Security Level: Email, Account Authentication (None)		Sent: 3/30/2020 10:16:15 AM Resent: 3/30/2020 10:36:53 AM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp

Theresa Costonis Theresa.Costonis@nashville.gov Security Level: Email, Account Authentication (None)	<div style="border: 2px solid blue; padding: 5px; text-align: center; font-weight: bold; color: blue;">COPIED</div>	Sent: 3/30/2020 10:16:14 AM Viewed: 3/30/2020 10:16:42 AM
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Electronic Record and Signature Disclosure:
Accepted: 3/30/2020 10:36:24 AM
ID: 0d514a8f-a4dd-4fd8-9d62-492894f6c999

Kristin Wilson Kristin.Wilson@Nashville.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		

John Cooper mayor@nashville.gov Security Level: Email, Account Authentication (None)		
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Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via DocuSign Elizabeth Waites Elizabeth.Waites@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign Amy Schuler amy.schuler@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Accepted: 7/18/2018 9:55:18 AM ID: aa2cc108-c316-4eb0-ae41-932668499562 Christopher Wood Christopher.Wood@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign Amber Gardner Amber.Gardner@nashville.gov Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	3/30/2020 10:36:53 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

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4. SUBSCRIPTION SERVICE During the term of the Service Plan and subject to these Terms and Conditions, Subscriber will have the right to obtain an Account and register its Authorized Users, who may access and use the Subscription Service, and DocuSign will provide the Subscription Service in material conformance with the Specifications. You must be 18 years of age or older to register for an Account and use the Subscription Service. Subscriber's right to use the Subscription Service is limited to its Authorized Users, and Subscriber agrees not to resell or otherwise provide or assist with the provision of the Subscription Service to any third party. In addition, DocuSign's provision of the Subscription Service is conditioned on Subscriber's acknowledgement and agreement to the following: (a) The Subscription Service facilitates the execution of eContracts between the parties to those eContracts. Nothing in these Terms and Conditions may be construed to make DocuSign a party to any eContract processed through the Subscription Service, and DocuSign makes no representation or warranty regarding the transactions sought to be effected by any eContract; (b) Between DocuSign and Subscriber, Subscriber has exclusive control over and responsibility for the content, quality, and format of any eContract. All eContracts stored by DocuSign are maintained in an encrypted form, and DocuSign has no control of or access to their contents; (c) If Subscriber elects to use one or more of the optional features designed to verify the identity of the intended recipient of an eContract that DocuSign makes available to its subscribers ("Authentication Measures"), DocuSign will apply only those Authentication Measures selected by the Subscriber, but makes no representations or warranties about the appropriateness of any Authentication Measure. Further, DocuSign assumes no liability for: (A) the inability or failure by the intended recipient or other party to satisfy the Authentication Measure; or (B) the circumvention by any person (other than DocuSign) of any Authentication Measure; (d) Certain types of agreements and documents may be excepted from electronic signature laws (e.g. wills and agreements pertaining to family law), or may be subject to specific regulations promulgated by various government agencies regarding electronic signatures and electronic records. DocuSign is not responsible or liable to determine whether any particular eContract is subject to an exception to applicable electronic signature laws, or whether it is subject to any particular agency promulgations, or whether it can be legally formed by electronic signatures; (e) DocuSign is not responsible for determining how long any d to be retained or stored under any applicable laws, regulations, or legal or administrative agency processes. Further, DocuSign is not responsible for or liable to produce any of Subscriber's eContracts or other documents to any third parties; (f) Certain consumer protection or similar laws or regulations may impose special requirements with respect to electronic transactions involving one or more "consumers," such as (among others) requirements that the consumer consent to the method of contracting and/or that the consumer be provided with a copy, or access to a copy, of a paper or other non-electronic, written record of the transaction. DocuSign does not and is not responsible to: (A) determine whether any

particular transaction involves a “consumer”? (B) furnish or obtain any such consents or determine if any such consents have been withdrawn; (C) provide any information or disclosures in connection with any attempt to obtain any such consents; (D) provide legal review of, or update or correct any information or disclosures currently or previously given; (E) provide any such copies or access, except as expressly provided in the Specifications for all transactions, consumer or otherwise; or (F) otherwise to comply with any such special requirements; and (g) Subscriber undertakes to determine whether any “consumer” is involved in any eContract presented by Subscriber or its Authorized Users for processing, and, if so, to comply with all requirements imposed by law on such eContracts or their formation. (h) If the domain of the primary email address associated with the Account is owned by an organization and was assigned to Subscriber as an employee, contractor or member of such organization, and that organization wishes to establish a commercial relationship with DocuSign and add the Account to such relationship, then, if Subscriber does not change the email address associated with the Account, the Account may become subject to the commercial relationship between DocuSign and such organization and controlled by such organization.

5. RESPONSIBILITY FOR CONTENT OF COMMUNICATIONS As between Subscriber and DocuSign, Subscriber is solely responsible for the nature and content of all materials, works, data, statements, and other visual, graphical, video, and written or audible communications submitted by any Authorized User or otherwise processed through its Account, the Subscription Service, or under any Service Plan. Accordingly: (a) Subscriber will not use or permit the use of the Subscription Service to send unsolicited mass mailings outside its organization. The term “unsolicited mass mailings” includes all statutory or common definitions or understanding of those terms in the applicable jurisdiction, such as those set forth for “Commercial Electronic Mail Messages” under the U.S. CAN-SPAM Act, as an example only; and (b) Subscriber will not use or permit the use of the Subscription Service: (i) to communicate any message or material that is defamatory, harassing, libelous, threatening, or obscene; (ii) in a way that violates or infringes upon the intellectual property rights or the privacy or publicity rights of any person or entity or that may otherwise be unlawful or give rise to civil or criminal liability (other than contractual liability of the parties under eContracts processed through the Subscription Service); (iii) in any manner that is likely to damage, disable, overburden, or impair the System or the Subscription Service or interfere with the use or enjoyment of the Subscription Service by others; or (iv) in any way that constitutes or encourages conduct that could constitute a criminal offense. DocuSign does not monitor the content processed through the Subscription Service, but in accordance with DMCA (Digital Millennium Copyright Act) safe harbors, it may suspend any use of the Subscription Service, or remove or disable any content that DocuSign reasonably and in good faith believes violates this Agreement or applicable laws or regulations. DocuSign will use commercially reasonable efforts to notify Subscriber prior to any such suspension or disablement, unless DocuSign reasonably believes that: (A) it is prohibited from doing so under applicable law or under legal process, such as court or government administrative agency processes, orders, mandates, and the like; or (B) it is necessary to delay notice in order to prevent imminent harm to the System, Subscription Service, or a third party. Under circumstances where notice is delayed, DocuSign will provide the notice if and when the related restrictions in the previous sentence no longer apply.

6. PRICING AND PER USE PURCHASES The prices, features, and options of the Subscription Service available for an Account depend on the Service Plan selected by Subscriber. Subscriber may also purchase optional services on a periodic or per-use basis. DocuSign may add or change the prices, features or options available with a

Service Plan without notice. Subscriber's usage under a Service Plan is measured based on the actual number of Seats as described in the Service Plan on the Site. Once a per-Seat Service Plan is established, the right of the named Authorized User to access and use the Subscription Service is not transferable; any additional or differently named Authorized Users must purchase per-Seat Service Plans to send Envelopes. Extra seats, users and/or per use fees will be charged as set forth in Subscriber's Service Plan if allowed by such Service Plan. If a Services Plan defines a monthly Envelope Allowance (i.e. # Envelopes per month allowed to be sent), all Envelopes sent in excess of the Envelope Allowance will incur a per-Envelope charge. Any unused Envelope Allowances will expire and not carry over from one billing period to another under a Service Plan. Subscriber's Account will be deemed to have consumed an Envelope at the time the Envelope is sent by Subscriber, regardless of whether Envelopes were received by recipients, or whether recipients have performed any actions upon any eContract in the Envelope. Powerforms are considered Envelopes within an Envelope Allowance Service Plan, and will be deemed consumed at the time they are "clicked" by any end user regardless of whether or not any actions are subsequently performed upon such Envelope. For Service Plans that specify the Envelope Allowance is "Unlimited," Subscriber is allowed to send a reasonable number of Envelopes from the number of Seats purchased. If DocuSign suspects that the number of Envelopes sent from a particular Seat or a group of Seats is abusive and/or unduly burdensome, DocuSign will promptly notify Subscriber, discuss the use-case scenario with Subscriber and any continued monitoring, additional discussions and/or information required to make a final determination on the course of action based on such information. In the event Subscriber exceeds, in DocuSign's sole discretion, reasonable use restrictions under a Service Plan, DocuSign reserves the right to transfer Subscriber into a higher-tier Service Plan without notice. If you misrepresent your eligibility for any Service Plan, you agree to pay us the additional amount you would have been charged under the most favorable pricing structure for which you are eligible. DocuSign may discontinue a Service Plan at any time, and with prior notice to you, may migrate your Account to a similar Service Plan that may carry a different fee. You agree to allow us to charge your credit card for the fees associated with a substitute Service Plan, even if those fees are higher than those you agreed to when you registered your Account. Optional services, are measured at the time of use, and such charges are specific to the number of units of the service(s) used during the billing period. Optional services subject to periodic charges, such as additional secure storage, are charged on the same periodic basis as the Service Plan fees for the Subscription Service.

7. SUBSCRIBER SUPPORT DocuSign will provide Subscriber support to Subscriber as specified in the Service Plan selected by Subscriber, and that is further detailed on DocuSign's website.

8. STORAGE DocuSign will store eContracts per the terms of the Service Plan selected by Subscriber. For Service Plans that specify the Envelope storage amount is "Unlimited," DocuSign will store an amount of Envelopes that is not abusive and/or unduly burdensome, in DocuSign's sole discretion. Subscriber may retrieve and store copies of eContracts for storage outside of the System at any time during the Term of the Service Plan when Subscriber is in good financial standing under these Terms and Conditions, and may delete or purge eContracts from the System at its own discretion. DocuSign may, at its sole discretion, delete an uncompleted eContract from the System immediately and without notice upon earlier of: (i) expiration of the Envelope (where Subscriber has established an expiration for such Envelope, not to exceed 365 days); or (ii) expiration of the Term. DocuSign assumes no liability or responsibility for a party's failure or inability to electronically sign any eContract within such a period of time. DocuSign may retain Transaction Data for as long as it has a

business purpose to do so. 9. BUSINESS AGREEMENT BENEFITS You may receive or be eligible for certain pricing structures, discounts, features, promotions, and other benefits (collectively, "Benefits") through a business or government Subscriber's agreement with us (a "Business Agreement"). Any and all such Benefits are provided to you solely as a result of the corresponding Business Agreement and such Benefits may be modified or terminated without notice. If you use the Subscription Service where a business or government entity pays your charges or is otherwise liable for the charges, you authorize us to share your account information with that entity and/or its authorized agents. If you are enrolled in a Service Plan or receive certain Benefits tied to a Business Agreement with us, but you are liable for your own charges, then you authorize us to share enough account information with that entity and its authorized agents to verify your continuing eligibility for those Benefits and the Service Plan. 10. FEES AND PAYMENT TERMS The Service Plan rates, charges, and other conditions for use are set forth in the Site. Subscriber will pay DocuSign the applicable charges for the Services Plan as set forth on the Site. If you add more Authorized Users than the number of Seats you purchased, we will add those Authorized Users to your Account and impose additional charges for such additional Seats on an ongoing basis. Charges for pre-paid Service Plans will be billed to Subscriber in advance. Charges for per use purchases and standard Service Plan charges will be billed in arrears. When you register for an Account, you will be required to provide DocuSign with accurate, complete, and current credit card information for a valid credit card that you are authorized to use. You must promptly notify us of any change in your invoicing address or changes related to the credit card used for payment. By completing your registration for the Services Plan, you authorize DocuSign or its agent to bill your credit card the applicable Service Plan charges, any and all applicable taxes, and any other charges you may incur in connection with your use of the Subscription Service, all of which will be charged to your credit card. Each time you use the Subscription Service, or allow or cause the Subscription Service to be used, you reaffirm that we are authorized to charge your credit card. You may terminate your Account and revoke your credit card authorization as set forth in the Term and Termination section of these Terms and Conditions. We will provide you with one invoice in a format we choose, which may change from time to time, for all Subscription Service associated with each Account and any charges of a third party on whose behalf we bill. Payment of all charges is due and will be charged to your credit card upon your receipt of an invoice. Billing cycle end dates may change from time to time. When a billing cycle covers less than or more than a full month, we may make reasonable adjustments and/or prorations. If your Account is a qualified business account and is approved by us in writing for corporate billing, charges will be accumulated, identified by Account identification number, and invoiced on a monthly basis. You agree that we may (at our option) accumulate charges incurred during your monthly billing cycle and submit them as one or more aggregate charges during or at the end of each cycle, and that we may delay obtaining authorization from your credit card issuer until submission of the accumulated charge(s). This means that accumulated charges may appear on the statement you receive from your credit card issuer. If DocuSign does not receive payment from your credit card provider, you agree to pay all amounts due upon demand. DocuSign reserves the right to correct any errors or mistakes that it makes even if it has already requested or received payment. Your credit card issuer's agreement governs your use of your credit card in connection with the Subscription Service, and you must refer to such agreement (not these Terms and Conditions) with respect to your rights and liabilities as a cardholder. You are solely responsible for any and all fees charged to your credit card by the issuer, bank, or financial institution including, but not limited to, membership,

overdraft, insufficient funds, and over the credit limit fees. You agree to notify us about any billing problems or discrepancies within 20 days after they first appear on your invoice. If you do not bring them to our attention within 20 days, you agree that you waive your right to dispute such problems or discrepancies. We may modify the price, content, or nature of the Subscription Service and/or your Service Plan at any time. If we modify any of the foregoing terms, you may cancel your use of the Subscription Service. We may provide notice of any such changes by e-mail, notice to you upon log-in, or by publishing them on the Site. Your payment obligations survive any termination of your use of the Subscription Service before the end of the billing cycle. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Subscriber will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by DocuSign to collect any amount that is not paid when due. DocuSign may accept any check or payment in any amount without prejudice to DocuSign's right to recover the balance of the amount due or to pursue any other right or remedy. Amounts due to DocuSign under these Terms and Conditions may not be withheld or offset by Subscriber for any reason against amounts due or asserted to be due to Subscriber from DocuSign. Unless otherwise noted and Conditions are denominated in United States dollars, and Subscriber will pay all such amounts in United States dollars. Other than federal and state net income taxes imposed on DocuSign by the United States, Subscriber will bear all taxes, duties, VAT and other governmental charges (collectively, "taxes") resulting from these Terms and Conditions or transactions conducted in relation to these Terms and Conditions. Subscriber will pay any additional taxes as are necessary to ensure that the net amounts received and retained by DocuSign after all such taxes are paid are equal to the amounts that DocuSign would have been entitled to in accordance with these Terms and Conditions as if the taxes did not exist. 11.

DEPOSITS, SERVICE LIMITS, CREDIT REPORTS, AND RETURN OF BALANCES You authorize us to ask consumer reporting agencies or trade references to furnish us with employment and credit information, and you consent to our rechecking and reporting personal and/or business payment and credit history if, in our sole discretion, we so choose. If you believe that we have reported inaccurate information about your account to a consumer reporting agency, you may send a written notice describing the specific inaccuracy to the address provided in the Notices section below. For you to use the Subscription Service, we may require a deposit or set a service limit. The deposit will be held as a partial guarantee of payment. It cannot be used by you to pay your invoice or delayed payment. Unless otherwise required by law, deposits may be mixed with other funds and will not earn interest. We reserve the right to increase your deposit if we deem appropriate. You may request that we reevaluate your deposit on an annual basis, which may result in a partial or total refund of the deposit to you or credit to your account. If you default or these Terms and Conditions are terminated, we may, without notice to you, apply any deposit towards payment of any amounts you owe to us. After approximately 90 days following termination of these Terms and Conditions, any remaining deposit or other credit balance in excess of amounts owed will be returned without interest, unless otherwise required by law, to you at your last known address. You agree that any amounts under \$15 will not be refunded to cover our costs of closing your account. If the deposit balance is undeliverable and returned to us, we will hold it for you for one year from the date of return and, during that period, we may charge a service fee against the deposit balance. You hereby grant us a security interest in any deposit we require to secure the performance of your obligations under these Terms and

Conditions. 12. TERM AND TERMINATION The term of these Terms and Conditions for each Account begins on the date you register for an Account and continues for the term specified by the Service Plan you purchase (the "Term"). You may terminate your Account at any time upon 10 days advance written notice to DocuSign following the Notice procedures set forth in these Terms and Conditions. Unless you terminate your Account or you set your Account to not auto renew, your Service Plan will automatically renew at the end of its Term (each a "Renewal Term"), and you authorize us (without notice) to collect the then-applicable fee and any taxes for the renewed Service Plan, using any credit card we have on record for you. Service Plan fees and features may change over time. Your Service Plan for a Renewal Term will be the one we choose as being closest to your Service Plan from the prior Term. For any termination (including when you switch your Account), you will be responsible for payment of all fees and charges through the end of the billing cycle in which termination occurs. If you terminate your annual Service Plan Account within the first 30 days of the Term, you may submit written request to DocuSign following the Notice procedures set forth in these Terms and Conditions, for a full refund of the prepaid fees paid by you to DocuSign. You will be limited to one refund. You agree that termination of an annual Service Plan after the first 30 days will not entitle you to any refund of prepaid fees. You will be in default of these Terms and Conditions if you: (a) fail to pay any amount owed to us or an affiliate of ours or any amount appearing on your invoice; (b) have amounts still owing to us or an affiliate of ours from a prior account; (c) breach any provision of these Terms and Conditions; (d) violate any policy applicable to the Subscription Service; (e) are subject to any proceeding under the Bankruptcy Code or similar laws; or (f) if, in our sole discretion, we believe that your continued use of the Subscription Service presents a threat to the security of other users of the Subscription Service. If you are in default, we may, without notice to you, suspend your Account and use of the Subscription Service, withhold refunds and terminate your Account, in addition to all other remedies available to us. We may require reactivation charges to reactivate your Account after termination or suspension. The following provisions will survive the termination of these Terms and Conditions and your Account: Sections 3, 9-11, and 15-23. 13. SUBSCRIBER WARRANTIES You hereby represent and warrant to DocuSign that: (a) you have all requisite rights and authority to use the Subscription Service under these Terms and Conditions and to grant all applicable rights herein; (b) the performance of your obligations under these Terms and Conditions will not violate, conflict with, or result in a default under any other agreement, including confidentiality agreements between you and third parties; (c) you will use the Subscription Service for lawful purposes only and subject to these Terms and Conditions; (d) you are responsible for all use of the Subscription Service in your Account; (e) you are solely responsible for maintaining the confidentiality of your Account names and password(s); (f) you agree to immediately notify us of any unauthorized use of your Account of which you become aware; (g) you agree that DocuSign will not be liable for any losses incurred as a result of a third party's use of your Account, regardless of whether such use is with or without your knowledge and consent; (h) you will not use the Subscription Service in any manner that could damage, disable, overburden or impair the System, or interfere with another's use of the Subscription Service by others; (i) any information submitted to DocuSign by you is true, accurate, and correct; and (j) you will not attempt to gain unauthorized access to the System or the Subscription Service, other accounts, computer systems, or networks under the control or responsibility of DocuSign through hacking, cracking, password mining, or any other unauthorized means. 14. DOCUSIGN WARRANTIES DocuSign represents and warrants that: (a) the Subscription Service as delivered to Subscriber

and used in accordance with the Specifications will not infringe on any United States patent, copyright or trade secret; (b) the Subscription Service will be performed in accordance with the Specifications in their then-current form at the time of the provision of such Subscription Service; (c) any DocuSign Products that are software shall be free of harmful or illicit code, trapdoors, viruses, or other harmful features; (d) the proper use of the Subscription Service by Subscriber in accordance with the Specifications and applicable law in the formation of an eContract not involving any consumer will be sufficient under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Â§Â§ 7001 et seq. (the "ESIGN Act") to E-SIGN Act; (e) the proper use of the Subscription Service by Subscriber in accordance with the Specifications and applicable law in the formation of an eContract involving a consumer will be sufficient under the E-SIGN Act to support the validity of such formation, to the extent provided in the E-SIGN Act, so long as and provided that Subscriber complies with all special requirements for consumer eContracts, including and subject to those referenced in Section 4.(f) and (g) above; and (f) DocuSign has implemented information security policies and safeguards to preserve the security, integrity, and confidentiality of eContracts and to protect against unauthorized access and anticipated threats or hazards thereto, that meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding Subscriber Information as set forth in Section 501 (b) of the Gramm-Leach-Bliley Act.

15. DISCLAIMER OF WARRANTIES EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY PROVIDED IN SECTION 14 OF THESE TERMS AND CONDITIONS, THE SUBSCRIPTION SERVICE AND THE SITE ARE PROVIDED "AS IS," AND DOCUSIGN: (a) MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER; (b) EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, AND TITLE; AND (c) DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE OR SITE ARE OR WILL BE ERROR-FREE, WILL MEET SUBSCRIBER'S REQUIREMENTS, OR BE TIMELY OR SECURE. SUBSCRIBER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THE USE OF THE SUBSCRIPTION SERVICE OR SITE. SUBSCRIBER WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF DOCUSIGN TO ANY THIRD PARTY. USE OF THE SUBSCRIPTION SERVICE AND SITE ARE AT YOUR SOLE RISK. Because some states and jurisdictions do not allow limitations on implied warranties, the above limitation may not apply to you. In that event, such warranties are limited to the minimum warranty period allowed by the applicable law.

16. SUBSCRIBER INDEMNIFICATION OBLIGATIONS You will defend, indemnify, and hold us, our affiliates, officers, directors, employees, suppliers, consultants, and agents harmless from any and all third party claims, liability, damages, and costs (including, but not limited to, attorneys' fees) arising from or related to: (a) your use of the Subscription Service; (b) your violation of these Terms and Conditions; (c) your infringement, or infringement by any other user of your Account, of any intellectual property or other right of any person or entity; or (d) the nature and content of all materials, works, data, statements, and other visual, graphical, written, or audible communications of any nature submitted by any Authorized User of your Account or otherwise processed through your Account.

17. LIMITATIONS OF LIABILITY NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS AND CONDITIONS, DOCUSIGN WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO SUBSCRIBER

FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED UNDER THESE TERMS AND CONDITIONS, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. UNDER NO CIRCUMSTANCES WILL DOCUSIGN'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS OR SUBSCRIBER'S USE OF THE SUBSCRIPTION SERVICE (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY SUBSCRIBER TO DOCUSIGN UNDER THESE TERMS AND CONDITIONS DURING THE 3 MONTHS PRECEDING THE DATE OF THE ACTION OR CLAIM. EACH PROVISION OF THESE TERMS AND CONDITIONS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES REPRESENTS AN AGREED ALLOCATION OF THE RISKS OF THESE TERMS AND CONDITIONS BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY DOCUSIGN TO SUBSCRIBER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS AND CONDITIONS, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE WARRANTIES IN THESE TERMS AND CONDITIONS HAVE FAILED OF THEIR ESSENTIAL PURPOSE. Because some states and jurisdictions do not allow limitation of liability in certain instances, portions of the above limitation may not apply to you.

18. CONFIDENTIALITY – "Confidential Information" means any trade secrets or other information of DocuSign, whether of a technical, business, or other nature (including, without limitation, DocuSign software and related information), that is disclosed to or made available to Subscriber. Confidential Information does not include any information that: (a) was known to Subscriber prior to receiving it from DocuSign; (b) is independently developed by Subscriber without use of or reference to any Confidential Information; (c) is acquired by Subscriber from another source without restriction as to use or disclosure; or (d) is or becomes part of the public domain through no fault or action of Subscriber. During and after the Term of these Terms and Conditions, Subscriber will: (i) use the Confidential Information solely for the purpose for which it is provided; (ii) not disclose such Confidential Information to a third party; and (iii) protect such Confidential Information from unauthorized use and disclosure to the same extent (but using no less than a reasonable degree of care) that it protects its own Confidential Information of a similar nature. If Subscriber is required by law to disclose the Confidential Information or the terms of these Terms and Conditions, Subscriber must give prompt written notice of such requirement before such disclosure and assist the DocuSign in obtaining an order protecting the Confidential Information from public disclosure. Subscriber acknowledges that, as between the parties, all Confidential Information it receives from DocuSign, including all copies thereof in Subscriber's possession or control, in any media, is proprietary to and exclusively owned by DocuSign. Nothing in these Terms and Conditions grants Subscriber any right, title, or interest in or to any of the Confidential Information. Subscriber's incorporation of the Confidential Information into any of its own materials shall not render Confidential Information non-confidential. Subscriber acknowledges that any actual or threatened violation of this confidentiality provision may cause

irreparable, non-monetary injury to the disclosing party, the extent of which may be difficult to ascertain, and therefore agrees that DocuSign shall be entitled to seek injunctive relief in addition to all remedies available to DocuSign at law and/or in equity. Absent written consent of DocuSign, the burden of proving that the Confidential Information is not, or is no longer, confidential or a trade secret shall be on Subscriber.

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